

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0045P
Gross and Adjusted Gross Income Tax
For Fiscal Years Ended 03/31/99, 03/31/00, and 03/31/01

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed a penalty at audit for failing to report gross income to the state of Indiana and a penalty for the underpayment of estimated income taxes. Taxpayer protests the proposed penalty assessments for the underpayment of estimated taxes and the audit penalty.

I. Tax Administration – Penalties

DISCUSSION

Taxpayer is a general contractor with ongoing contracts in numerous states. The contract that gave rise to the tax assessment was entered into on June 1, 1999, representing taxpayer's initial entrance into the state of Indiana. Taxpayer has no other physical presence in the state of Indiana. Taxpayer protests the penalties assessed for the underpayment of estimated income taxes and the audit penalty.

Taxpayer states that it has an internal Tax department and outsources its income tax compliance to an accounting firm based out of state. Taxpayer states that the gross income tax was inadvertently overlooked and to further exacerbate this problem, its outside accounting firm encountered an input error with its software that was made in the initial Indiana income tax return in a year when there were no gross receipts (1999). This error carried forward to subsequent filings and suppressed the computation of the Indiana gross income tax when it should not have been suppressed.

Taxpayer failed to report gross income subject to tax and has not provided reasonable cause to

allow a penalty waiver. Taxpayer also failed to pay estimated income taxes. To avoid the penalty, the quarterly estimated payments must equal at least twenty percent (20%) of the total income tax liability for the current taxable year or twenty-five percent (25%) of the final income tax liability for the prior taxable year. Taxpayer failed to make the quarterly estimated payments and has not provided reasonable cause to allow a penalty waiver. Procedures should have been in effect to assure that taxes were timely paid.

FINDING

Taxpayer's protest is denied.